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10/610,938

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James Harold Gray

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EXAMINER

INGVOLDSTAD, BENNETT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/610,938	<b>Applicant(s)</b> GRAY ET AL.	
	<b>Examiner</b> Bennett Ingvaldstad	<b>Art Unit</b> 2427	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14, 16, 17, 35, 37, 38, 54, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 17, 35, 37, 38, 54, 56 and 57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 14 December 2009 have been fully considered. Applicant has amended the independent claims to incorporate limitations from the previously presented dependent claims, now canceled. Applicant argues that the previous rejections did not meet these limitations. Remarks/Arguments at 8, 9. Applicant thus specifically argues that Kunkel combined with Maissel and Ellis does not meet the limitations requiring that a message comprises an IP packet having a header and body portion, the body portion containing a location for additional content. This is unpersuasive.

As set forth in the rejections, Kunkel teaches that a message may comprise a location for additional content. See col. 2, ll. 7–14 (teaching that codes indicate where additional information is available). Ellis teaches that a message comprising a location for additional content may be sent over the Internet. See Fig. 7 (illustrating that contents of a message include channel and time location data 86); claim 2 (teaching that messages may be sent via the Internet). Messages sent over the Internet comprise IP packets. All IP packets have a header and data or “body” portion, and carry data in the data/body portion. Therefore, the message comprising data specifying a location for additional content, when sent over the Internet, meets the claim limitations.

Support for the above assertions may be found in, for example, the cited Internet Encyclopedia document. See section 3, IP Packet Structure page. “All IP packets are

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structured the same way - an IP header followed by a variable-length data field.” Id. The contents of the header portion are defined, and do not include a location for additional content. Id. Therefore, a location for additional content would be stored in the data/body portion of the IP packet.

Therefore, all of the claim limitations are met by the combination of Kunkel with Maissel and Ellis.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 14, 16, 17, 35, 37, 38, 54, 56, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 7100183 (“Kunkel”) in view of US 2003/0088872 (“Maissel”) and US 2007/0124763 (“Ellis”).**

Claim 14. Kunkel teaches a method comprising receiving at a user device a hot key signal (col. 3, lls. 36–49: demographic codes) from a television provider network, the hot key signal related to an advertisement being viewed by a user of the user device (col. 2, lls. 4–14: the codes indicate that additional information about an advertisement is available); the hot key signal indicating availability of additional content comprising an additional advertisement (id.); determining, at the user device independent of any request by the user but based in part on whether the additional content is related to the

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advertisement (see col. 2, lls. 4–14: describing that hot key codes are displayed based on the currently-watched advertisement), whether the hot key is relevant to the user (id.: using bit masks to determine if the user fits a demographic profile for the additional information); responsive to determining the hot key signal is relevant, displaying on a screen a hot key indicating that the hot key signal has been received and the availability of the additional content (see col. 4, lls. 47–53); and responsive to receiving an indication that the hot key is accepted (col. 4, lls. 55–59), displaying on the screen the additional content as video programming (col. 4, l. 65 – col. 5, l. 6: displaying a video presentation).

Kunkel does not specify that the additional advertisement is longer than the advertisement. One of ordinary skill, in implementing Kunkel's method, would have had the choice of making the additional advertisement longer, shorter, or the same length as the advertisement. Due to the finite number of available choices, the choice to make the additional advertisement longer than the advertisement would have been obvious to try.

Nor does Kunkel specify that the advertisement videos are played in a full-screen format.

Maissel teaches a method for directing a viewer of an advertisement to additional information (Fig. 12B) wherein the program containing the advertisement is displayed in full screen (Fig. 1).

It would have been obvious to apply Maissel's teaching that advertisements can be viewed in full screen to the method of Kunkel, thus modifying Kunkel to display the

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advertisements in full screen, for the purpose of making the advertisement more prominent to the viewer.

Kunkel teaches that the demographic codes (hot key messages) may be delivered by a third party, but Kunkel in view of Maissel does not further teach that the hot key signal comprises an IP data packet.

Ellis teaches a targeted message system for providing additional information about products and services (Fig. 13), where the targeted message may be sent via the Internet (claim 2), the message thus comprising an IP packet with a body and header portion, the body portion indicating an additional information location (see information 86, Fig. 7).

It is obvious to combine known elements according to known methods to yield predictable results. Therefore, it would have been obvious to combine Kunkel's targeted message that may be delivered by a third party with Ellis's teaching of an IP message according to the described method of delivering the message from a third party through the Internet, thus yielding the same predictable results of receiving the targeted message at the user device.

Claim 16. Ellis further teaches determining whether the hot key signal is relevant to user by determining that a destination address of the signal is an address of the user device (IP packets use destination addresses for delivery).

Claim 17. Kunkel further teaches that determining whether the hot key signal is relevant comprises determining whether the content is related to content in which the

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advertisement is presented (col. 2, lls. 4–14: codes indicate that additional information about an advertisement is available).

Claim 35. Kunkel in view of Maissel further teaches a system for implementing the above method, the system comprising a receiving portion and a processor (Kunkel Fig. 1).

Claims 37 and 38 correspond to claims 16 and 17 above and are met as such.

Claim 54. Kunkel in view of Maissel further teaches a machine readable medium having instructions stored thereon for implementing the above method on the receiver indicated above (Fig. 1).

Claims 56 and 57 correspond to claims 16 and 17 above and are met as such.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvaldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M–F 9–5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvaldstad/  
Examiner, Art Unit 2427

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427